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DELTA COUNCIL
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2010 APR 12 PM 2:30

April 7, 2010

Philip Isenberg, Chairman
and Members of:
The Delta Stewardship Council
650 Capitol Mall, Fifth Floor
Sacramento, California 95814

SUBJECT: REQUEST FOR CONSISTENCY REVIEW

Dear Chairman Isenberg,

As a resident of Clarksburg and a Californian, I thank you for your service to safeguard the California Delta.

During the initial meeting of your Delta Stewardship Council (the "Council") on April 1, 2010, the "Land Use and Resource Management Plan" (the "Plan"), recently approved by the Delta Protection Commission (the "DPC"), was accepted as your Interim Plan, until the Council approves its' own. It was my intention to address this issue during Public Comment but I chose to write this letter to you instead.

The original Management Plan was written in 1994 and implemented the Delta Protection Act of 1992 (the "Act"). After the successful appeals (levees, densities, buffers and land use) by Concerned Citizens of Clarksburg and NRDC to the DPC in 2007, the Chair of the Commission determined a need to rewrite the Plan and began the process. Altered language contained in the revised Plan could nullify the 2007 appeal and is inconsistent with the Act. It must be noted that the 1994 Management Plan was effective and has worked for sixteen years!

The revised Plan was adopted by the Commission on March 27, 2010. At that meeting, Secretary Lester Snow personally and respectfully appealed to the Commission to hold off the adoption of the revised Plan for a few weeks of review. This would allow all Council members to have a better understanding of how the revised Plan affects the newly enacted legislative requirements. He was summarily rebuffed by the DPC. (Letter dtd. 02/05/10 from Secretary Snow is attached.)

After ample consideration and consultation with others, I request that your Counsel legally review the changes made to the 1994 Plan and whether the revised Plan, adopted on March 27, 2010 is consistent with the Act, legislative mandates and your mission. The 1994 Land Use and Resource Management Plan was written in conformance with the Act. Substantial changes to the Act and its "Plan" must be justified, made consistent and NOT be used to undermine your Council's work.

Examples of specific concern follow:

I. LAND USE POLICIES #11A, #11B and AG POLICY #6.

These new clustering and transfer of development rights (TDR's) policies weaken the policies of the Delta Protection Commission and are in conflict with the Act. They could allow substantial residential development anywhere in the Primary Zone.

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2. LAND USE POLICY #3

This proposed policy will eliminate a DPC buffer policy that is specifically designed to protect the agricultural resources in the Primary Zone at the intended higher degree of protection than other farming areas in the five counties. The proposed new policy turns any buffer decisions regarding land use changes back to the individual counties. **The commission will have no oversight or appeal authority** over future land use changes and associated new negative buffer impacts on the Primary Zone agricultural resources.

3. Many policies have been changed from the 1994 SHALL (mandatory) to SUBJECTIVE LANGUAGE (discretionary). While the 1994 law is mandatory, many of the policies in the 2010 Management Plan have become discretionary.

4. The reference to January 1, 1992 (the "Act") established a baseline for development and density in the Primary Zone of the California Delta. This date has been consistently deleted from many of the modified policies, eliminating an important control on Primary Zone development.

I further request that your Council ensure that the adopted Plan be consistent with the 1992 Delta Protection Act, before it serves as the Council's Interim Plan. This will be a step to protect the interests of all Californians and guarantee that co-equal values be achieved in the Delta.

Thank you for giving me the opportunity to write this letter to you. I know that your endeavors to protect, preserve and enhance this very special place will be successful.

Sincerely,



Peggy Bohl

Att: (1)

c.c. Senator Fran Pavley, Senate District 23
Assemblymember Jared Huffman, District 6
Resource Director, Lester Snow
Council Member Randy Fiorini
Council Member Gloria D. Gray
Council Member Patrick Johnston
Council Member Hank Nordhoff
Council Member Don Nottoli
Council Member Richard Roos-Collins
Council Counsel Chris Stevens
Council Acting Executive Director Joe Grindstaff
Delta Protection Commission Executive Director Linda Fiack
Barry Nelson, Natural Resources Defense Council
Kate Poole, Natural Resources Defense Council
Greg Loarie, Earth Justice
Sprek Rosekranz, Environmental Defense
Jonas Minton, Planning and Conservation League
Gary Bobker, The Bay Institute



February 25, 2010

The Honorable Don Nottoll, Chair
Delta Protection Commission
P.O. Box 530
Walnut Grove, CA 95690

Re: Delta Protection Commission Draft Management Plan Update

Dear Chair Nottoll,

As one of two new commissioners, I write to ask that you defer a vote adopting the Draft Management Plan update for at least a month and schedule a workshop to allow all commissioners to have a better understanding of how the updated Plan meshes with – and could be guided by and also guide – newly enacted legislative requirements.

As you know, work on updating the Land Use & Resource Management Plan began almost three years ago. That was before the governor's Delta Vision Blue Ribbon Task Force recommendations were completed and well before the Legislative package enacted last fall that revised the DPC membership, created the Delta Stewardship Council and the Sacramento-San Joaquin Delta Conservancy, and assigned several new roles and tasks to each.

Over the coming 16 months, the DPC is required to develop an economic sustainability plan for the Delta. It's important that options that should be included in that plan not be precluded by the draft Management Plan. There also may be portions of the draft Management Plan that more properly belong in the economic sustainability plan. Last November and again in January, state agencies raised the issue about developing a financial mechanism to offset any loss of local government or special district revenue – not because they wanted to avoid legitimate responsibility, but because this mechanism more properly belongs in the economic sustainability plan.

1416 Ninth Street, Suite 1311, Sacramento, CA 95814 Ph. 916.653.5656 Fax 916.653.8102 <http://resources.ca.gov>

Baldwin Hills Conservancy • California Coastal Commission • California Coastal Conservancy • California Conservation Corps • California Fish and Game Commission • Central Valley Flood Protection Board
Coachella Valley Mountains Conservancy • Colorado River Board of California • Delta Protection Commission • Delta Stewardship Council • Department of Boating & Waterways • Department of Conservation
Department of Fish & Game • Department of Forestry & Fire Protection • Department of Parks & Recreation • Department of Resources Recycling and Recovery • Department of Water Resources
Energy Resources Conservation & Development Commission • National American Heritage Commission • Sacramento-San Joaquin Delta Conservancy • San Diego River Conservancy
San Francisco Bay Conservation & Development Commission • San Gabriel & Lower Los Angeles Rivers & Mountains Conservancy • San Joaquin River Conservancy
Santa Monica Mountains Conservancy • Sierra Nevada Conservancy • State Lands Commission • Wildlife Conservation Board



Honorable Don Nottoli
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In addition, as state agencies conveyed to you last November, while it is state policy to preserve and protect agricultural lands and we are committed to this, the draft Management Plan update does not adequately balance that policy with other state interests. As written, in some cases it could restrict non-governmental organizations (such as local reclamation districts, non-profit organizations, local governments and individual property owners) from partnering with state agencies to bring much needed programs and projects into the Delta.

The recently enacted legislation gives us new roles and new challenges, but I remain committed to working with you and the members of the Delta Protection Commission to achieve a sustainable Delta and find the right balance of its multiple resources and uses.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lester Snow', followed by a long horizontal line extending to the right.

Lester Snow,
Secretary for Resources

cc: Linda Flack, Executive Director